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82-794

No. 82-

IN THE SUPREME COURT OF THE UNITED STATES

OCTOBER TERM, 1982

MILDRED PETERS, et al.,

Petitioners,

v.

WAYNE STATE UNIVERSITY, TEACHERS INSURANCE AND ANNUITY ASSOCIATION AND COLLEGE RETIREMENT EQUITIES FUND,

Respondents.

ON PETITION FOR A WRIT OF CERTIORARI TO THE UNITED STATES COURT OF APPEALS FOR THE SIXTH CIRCUIT

MOTION FOR EXPEDITED CONSIDERATION OF THE PETITION FOR A WRIT OF CERTIORARI

Petitioners Mildred Peters, et al., respectfully move for expedited consideration of the accompanying Petition For A Writ of Certiorari in the above-captioned case, in which petitioners urge the Court to grant the writ of certiorari and to hear this case on an expedited schedule in tandem with Arizona Governing Committee v. Norris, No. 82-52 (petition for cert. granted October 12, 1982). Expedited consideration of the Petition For A Writ

of Certiorari will permit the Court to set this case for argument this term in tandem with Norris, if the Court deems it appropriate.

1. Like Norris, this case raises issues of liability under Title VII of the Civil Rights Act of 1964, as amended, 42 U.S.C. §2000e, et seq., including the question of what constitutes unlawful discrimination under Title VII, which requires application and clarification of the Court's decision in Los Angeles Department of Water & Power v. Manhart, 435 U.S. 702 (1978). This case, however, poses all such issues in a factual and legal context much more typical of the numerous pension discrimination cases pending in the lower courts. First, this case directly presents the important question of the meaning of the term "employer" as it is used in Title VII, and the scope of Title VII's application outside the conventional employer-employee relationship. Second, unlike the deferred compensation plan at issue in Norris, the employees in the instant case have no right to receive a lump sum payment of the full value of contributions paid into the fund. Third, the employer here makes substantial contributions to the employee pension fund. Fourth, the pension fund at issue here is administered by an organization which was created solely to serve the pension plan needs of the employer. Consideration of this case with Norris would therefore greatly assist the Court's complete and expeditious review and resolution of these important statutory questions.

2. The Court of Appeals for the Sixth Circuit entered its opinion and judgment in the instant case on October 14, 1982.

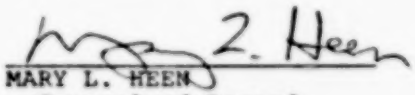
3. This Court granted the Petition for a Writ of Certiorari to the Ninth Circuit in Arizona Governing Committee v. Norris, No. 82-52 on October 12, 1982. Pursuant to Rule 35 of the Rules of this Court, petitioners' brief on the merits is due on or about November 26, 1982, and respondents' brief is due thirty days after receipt of petitioners' brief. The Norris case will therefore be ripe for argument thereafter this term.

4. Petitioners accordingly urge that the time be shortened for the filing of any briefs, memoranda, or statements in response to the petition pursuant to Rule 22 of the Rules of this Court, and hereby move that such briefs, memoranda, or statements, if any, be required to be filed on or before Tuesday, November 16, 1982, and that the petition and briefs or statements, if any, thereafter without delay be distributed by the Clerk, pursuant to Rule 22.4, to the Court for its consideration.

5. All respondents through counsel have consented to the granting of the above-stated motion, and have stated to counsel for petitioners their willingness to comply with the schedule suggested by petitioners.

WHEREFORE, petitioners respectfully urge that the Court grant their motion to expedite consideration of the Petition for Writ of Certiorari, so that an expedited hearing of this case in tandem with Norris would not be precluded should the Court deem it appropriate.

Respectfully submitted,



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Dated:
November 9, 1982